



TOWN OF PARADISE POLICE DEPARTMENT

5595 Black Olive Drive, Paradise, CA 95969 • 24-Hour (530) 872-6161 • FAX (530) 872-4950

May 9, 2019

Peter Bibring
American Civil Liberties Union
of Southern California
1313 W. 8th Street
Los Angeles, CA 90017
prarequest@aclusocal.org

RE: Paradise Public Records Request received January 15, 2019

Dear Mr. Bibring:

On January 15, 2019, our office received your request for records under the California Public Records Act (Government Code Section 6250). The request was for an extensive list of separate and unique Police Officer Personnel Files.

The Paradise Police Department follows the regulations set forth under the California Public Records Act. After reviewing the current provisions of California Penal Code section 832.7, as well as numerous, subsequent, clarifying Court decisions, we conducted a thorough review of Town of Paradise Police Department records. We identified the attached documents as the extent of the records relevant to your request.

Please contact us if you have any additional requests for public records.

Sincerely,

A. Borgman/322

Anthony Borgman
Police Lieutenant

MEMORANDUM

TO: Eric Reinbold, Police Chief
Anthony Borgman, Lieutenant

FROM: Dwight L. Moore, Town Attorney

SUBJECT: ACLU Public Records Request

DATE: May 2, 2019



The attached public records are approved for disclosure to the ACLU.



MEMORANDUM

Date: January 4, 2016

To: Lt. Steve Rowe; Operations Lieutenant

From: Chris M. Buzzard, Special Investigator

Subject: **EXECUTIVE SUMMARY- INTERNAL AFFAIRS CASE # 2015-04**

COMPLAINANT: Administration

DATE OF OCCURRENCE: November 26, 2015

EMPLOYEE INVOLVED: Officer Patrick Feaster

EMPLOYEE'S SUPERVISOR: Officer In Charge John Alvies

EMPLOYEE'S LIEUTENANT: Lieutenant Steve Rowe

BACKGROUND

On November 26, 2015 Officer Feaster was on uniformed patrol, parked in a marked unit monitoring the area of Skyway south of Foster Rd. At about 00:07 hrs., Officer Feaster observed a dark SUV rapidly exit the Cantina Bar at a high rate of speed without its headlights on. The vehicle was driven south onto Skyway as Officer Feaster prepared to follow it. Now accelerating, the dark SUV was driven through a left-turn red light onto east bound Pearson Rd. Officer Feaster accelerated to catch up to the vehicle and also turned onto east bound Pearson Rd. Officer Feaster activated his emergency lights, which in turn, activated the dash mounted camera (MAV) installed in that marked police car (as a matter of programming, that particular dash mounted camera captures and pre-records the previous thirty seconds, prior to its activation). From this point on, the events addressed in this investigation are captured on the MAV video.

With emergency lights fully activated, Officer Feaster attempted to overtake the dark SUV, which was traveling at a high rate of speed. Officer Feaster then witnessed the SUV pass through the intersection of Pearson Rd. and Black Olive Dr. and then collided with the raised Pearson Rd. median, about 95 feet east of the intersection. Officer Feaster saw the SUV overturn and a person, later identified as Darien Ehorn (23)

ejected from the passengers' side of the SUV and land on the roadway. The SUV came to rest on its driver's side, adjacent to Ehorn's body.

As Officer Feaster pulled in behind the SUV, he radioed in essence that he was on-scene of a rollover traffic accident with injuries, his location, and requested backup. Officer Feaster got out of his vehicle and saw a male, later identified as Andrew Thomas, pulling himself out of the SUV on the upside passenger door window. Officer Feaster, who was between the patrol car and the SUV walked toward the SUV and pulled his sidearm (Glock 21c .45 caliber semi-automatic pistol with flashlight attachment) from his holster. As Officer Feaster raised his weapon and continued to walk toward him, a single shot discharged from Officer Feaster's weapon and Thomas fell back into the vehicle. Officer Feaster reholstered his weapon, walked up to the SUV and looked inside. As he looked inside, Officer Feaster relayed Thomas said to him "You shot me, I'm dead". Officer Feaster then replied to him that he did not shoot him. After about 15 seconds, Officer Feaster radioed to dispatch that there was an unresponsive female on the ground and advised a male refusing to get out of the SUV, but does not report that his weapon discharged. At this point, Officer Feaster begins to look on the ground for a casing near where the discharge occurred. Officer Feaster renders no medical aid to Ehorn or Thomas.

Approximately 50 seconds after the weapon discharged, Officer Ayala and OIC Alvies arrived on scene. From this point on, additional video is captured by the activation of OIC Alvies' and Officer Ayala's VieVu body worn cameras. OIC Alvies, who is assigned the shift OIC, assumed control and directed first-aid begin on Ehorn. Officer Ayala responds by supporting her neck and airway. Officer Feaster then advised OIC Alvies of Thomas being in the vehicle refusing to get out. Officer Feaster leaned into the SUV and said: "Get out of the car sir" and "You're not shot sir". Officer Feaster then explained to OIC Alvies his observations of the SUV being driven and of the collision, but did not say anything about his weapon discharge or that Thomas told him that he was shot. With Officer Feaster in close proximity to him, OIC Alvies looks into the SUV and sees Thomas slumped down, not moving. OIC Alvies told Thomas that he needed to get out of the vehicle at which time Thomas said he had been shot. OIC Alvies said based on hearing Officer Feaster tell him earlier that he had not been shot and that he had no knowledge of Officer Feaster firing his weapon yet, replied to Thomas that he was not shot. The OIC followed up by asking Thomas who shot him, to which he replied "The cop". OIC Alvies said he still discounted that statement and stated "The cop did not shoot you". During this exchange, Officer Feaster does not advise anyone that his weapon did or might have discharged.

For approximately the next 10 minutes, Officer Feaster persistently looked on the ground in the area of the discharge for a casing. His attention was only diverted away briefly when he was assigned a task (such as helping remove the windshield and shut off the running motor of the SUV) or asked clarifying questions by OIC Alvies or Officer Ayala. Despite these periods of interaction, Officer Feaster did not advise anyone, including the supervisor and responding EMS personnel that his weapon did or might have discharged or that Thomas had reported being shot.

Approximately 10 minutes after Officer Feaster's weapon discharged, OIC Alvies said he thought that Thomas may have suffered injuries at the Cantina Bar, prior to the collision. OIC Alvies said he thought this in part because of Thomas' earlier statement to both he and Officer Feaster that he had been shot, coupled with an unusual amount of bleeding he saw from Thomas once he was extricated from the SUV. As Thomas was being tended to by EMS, OIC Alvies told Officer Feaster to assume control of the scene and then directed Officer Ayala to accompany him to the Cantina Bar to further the investigation. Approximately 11 minutes and 35 seconds after the weapon discharged and as they walked toward their vehicles, Officer Feaster hurriedly walked toward them and said "No, no; I had an AD" (accidental discharge). Officer Feaster relayed to the officers that Thomas was exiting the vehicle when his weapon discharged. He also said "I don't even think I shot him". "I wasn't even pointing at him". "My gun did go off".

At this time, OIC Alvies said the matter transitioned into a Felony DUI and Officer Involved Shooting investigation. Officer Feaster was asked by OIC Alvies for a "public safety statement" including probable trajectory of the shot and crime scene scope. Officer Feaster complied by describing his positioning as the weapon discharged. Per department policy, after OIC Alvies obtained the basic information, he ordered Officer Feaster not to talk to anyone and provided him with a POBR information card. Officer Feaster later submitted to a voluntary interview as part of the Butte County Officer Involved Shooting/Critical Incident Protocol Investigation.

As part of the OIS protocol, Lt. Rowe later secured Officer Feaster's duty weapon and placed into evidence intact. Officer Feaster's sidearm is a department issued Glock Model 21C .45 caliber semi-automatic pistol, S/N DXX670US. Using approved standards, the department approved the weapon modification of a factory designed Streamlight TLR flashlight attachment with pressure switch located under the trigger in front of the grip approximately a year and a half earlier. Officer Feaster regularly qualified with this weapon and it was regularly inspected for function and compliance by trained department range staff. Officer Feaster last qualified with this weapon 9 days prior to the OIS event.

The female passenger, Darien Ehorn (23) was pronounced deceased on the scene by EMS personnel. Cause of Death was later determined as a result of Multiple Blunt Force Trauma due to Motor Traffic Collision.

From the collision site, Andrew Thomas (26) was taken by ambulance to Enloe Hospital, Neuro-Trauma Unit in Chico, CA. He had a bullet penetration to the left side of his neck/shoulder which struck the T-1 vertebrae. After surgery, the bullet remained located within the upper chest cavity, next to the right lung. According to the CHP Collision Report, Thomas had a BAC of .154% at the time of collision. It is unknown from available medical records what other injuries were a result of the rollover collision. On December 19, 2015, Thomas died at Enloe Hospital due to complications from the gunshot wound he received on November 26, 2015.

ALLEGATION #1

The Administration alleges that on November 26, 2015, at approximately 00:08, hours, on Pearson Rd, east of the Black Olive Dr. intersection, in Paradise California, Officer Patrick Feaster, who was on duty and in uniform, failed to safely handle his duty handgun resulting in an accidental, unintentional discharge causing unwarranted injury and later death to another (Andrew Thomas) being detained and or arrested by Officer Patrick Feaster.

Video:

Officer Feaster's Mobile Audio Video (MAV) – "Dash Cam"

Officer Feaster's assigned vehicle was equipped with a functioning MAV "Dash-Cam" which was automatically activated once the officer turned on the vehicles emergency lighting equipment. The MAV is programmed to revert back 30 seconds prior to activation which resulted in the entire incident being video recorded. There is no audio associated with this MAV.

MAV video shows Officer Feaster walking toward the crashed SUV, un-holstered his sidearm when the male occupant, Thomas, begins to exit the overturned SUV. As Officer Feaster's momentum continued forward, he points the firearm toward Thomas and it discharged once. Thomas immediately falls back into the SUV. A frame by frame viewing of the video shows that Officer Feaster's gun discharged while he was in mid-step. Additionally, the video shows that he flinches his head when the gun fires.

Other Documentation:

DOJ Lab report (RD-15-001953-0002) on Officer Feaster's gun indicated that there was nothing unusual or any indications of malfunction during the examination of the firearm. The ammunition and firearm functioned properly during test firing.

Statements:

Andrew Thomas:

In the District Attorney's Supplemental Report that summarizes Thomas' interview Thomas stated that he never saw the shot or a flash from the shot that injured him.

In review of the audio recording of the District Attorney's interview with Thomas he stated he was hit on the side and said "I didn't even see it coming." Thomas said "He hit me like a fuckin' tin can." Thomas added "He didn't even look me in the eye when he shot me."

Sgt. Alvies:

(Note: On December 7, 2015, OIC Alvies was promoted to the rank of Sergeant based upon a previously announced promotion).

Approximately 50 seconds after the weapon discharged, OIC Alvies arrived on scene and assumed control of the scene. Officer Feaster made no notification of the weapon discharge to him, as OIC. Approximately 10 minutes and 45 seconds after arriving, Sgt. Alvies told Officer Feaster to remain on the scene and told Officer Ayala to go to the Cantina Bar with him to investigate further the injuries to Thomas. As they rapidly walked toward their respective cars, Officer Feaster, who is rapidly walking toward them, said advised for the first time "No, no. I had an AD".

Officer Ayala:

Approximately 10 minutes and 45 seconds after he arrived on the scene, Officer Ayala said that his attention was focused on OIC Alvies who said something to the effect of "Feaster, you have the scene; Manny you're going with me to Cantina". As he began to walk toward OIC Alvies, Officer Ayala hears Officer Feaster call out "No, No don't, I had an AD". Officer Feaster continued to say "I wasn't pointing at him, I didn't shoot him", "but my gun did go off". Officer Ayala said that Officer Feaster sounded certain the gun went off but uncertain that Thomas was struck by the bullet.

Officer Feaster:

Officer Feaster relayed that as he approached the SUV he saw a male subject quickly trying to exit the vehicle, appearing to attempt to flee the scene. Officer Feaster said he pulled his firearm as if he would in a high risk traffic stop. Officer Feaster stated as he was pulling his firearm it appeared to go off, but he was not really sure if it did. Officer Feaster said he was in the process of pointing his weapon at the male but never got set or had his arms locked out when the firearm discharged. He thought the round went up and to the left.

Officer Fester stated that once other officers arrived and were handling the scene, he started looking for his shell casing. Officer Feaster said he was looking for the casing to one, preserve it for evidence and two just to validate the fact his weapon did in fact go off. Officer Feaster stated at this point he was still not one hundred percent sure it had gone off.

Officer Feaster said it wasn't until EMS got Thomas out of the car and they were notified he had a gunshot wound, and OIC Alvies was headed to the "Cantina" to look for a possible shooter that it finally "clicked" in his head that he had an accidental discharge (A.D.) but he thought his gun was not pointed at Thomas and his round was up and away to the left. Officer Feaster stated they then found the casing and he realized for the first time his gun did in fact go off.

ALLEGATION #2

The Administration alleges that on November 26, 2015, between 00:08 and approximately 00:19, hours, on Pearson Rd, east of the Black Olive Dr. intersection, in Paradise California, Officer Feaster, who was on duty and in uniform, unintentionally discharged his duty handgun resulting in the injury and later death of another (Andrew Thomas) and failed to make a verbal report to his supervisor as soon as practical and when circumstances permitted following the application of force; and failed to participate in or gave false or misleading statements, or misrepresented or omitted material information to a supervisor in connection to an investigation.

Video:

Officer Feaster's Mobile Audio Video (MAV) – "Dash Cam"

Officer Feaster's assigned vehicle was equipped with a functioning MAV "Dash-Cam" which was automatically activated once the officer turned on the vehicles emergency lighting equipment. There is no audio associated with this MAV.

After Officer Feaster's weapon is discharged, MAV shows Officer Feaster reholstering his weapon, walking up to the SUV and looking inside. After about 15 seconds, Officer Feaster uses his portable radio and begins to look on the ground where the discharge occurred. For approximately the next 10 minutes, Officer Feaster persistently looked on the ground in the area of the discharge for a casing. His attention was only diverted away briefly when he performed a task or briefly talks with another officer (such as helping remove the windshield and shutting off the running motor of the SUV)

OIC Alvies and Officer Ayala Portable A/V Recorders (VieVu)

Officer Feaster advised OIC Alvies that a male (Thomas) is in the vehicle refusing to get out. Then Officer Feaster leaned into the SUV and said: "Get out of the car sir" and "You're not shot sir". Officer Feaster then explains to OIC Alvies his observations of the SUV being driven and the collision but did not say anything about his weapon discharge. With Officer Feaster in close proximity to him, OIC Alvies looks into the SUV and sees Thomas slumped down, not moving. OIC Alvies tells Thomas that he needed to get out of the vehicle at which time Thomas said he had been shot. (Unaware of the shooting) OIC Alvies replied to Thomas that he was not shot. The OIC followed up by asking Thomas who shot him to which he replied "The cop". OIC Alvies then replied "The cop did not shoot you". During this exchange, Officer Feaster does not advise the supervisor that his weapon did or might have discharged.

On at least two other occasions during initial on-scene investigation, Officer Feaster describes the circumstances and events to OIC Alvies and/or Officer Ayala of his initial observations of the SUV, directions of travel, collision but does not mention his weapon discharging to them.

Approximately 11 minutes and 35 seconds after the weapon discharge and as OIC Alvies and Officer Ayala walked toward their vehicles to further the investigation, Officer Feaster hurriedly walked toward them and said "No, no; I had an AD" (accidental discharge).

Statements:

Sgt. Alvies

Sgt. Alvies relayed in essence that on the evening of November 25, 2015, he was assigned to work the night shift as OIC, which began at 18:00 hrs.

Sgt. Alvies relayed that during the shift, on November 26th at about 00:08 hrs, he and Officer Ayala were inside the Paradise Police Department report writing room when he heard Officer Feaster call out on the radio of a rollover collision and requested emergency backup. As they responded, a second radio transmission by Officer Feaster advised that a female was ejected from the vehicle, requested medical aid and male subject was refusing to get out of the car.

Within a minute, Sgt. Alvies and Officer Ayala arrived simultaneously. Sgt. Alvies said he noticed immediately that no first-aid was being given to the ejected female victim so he directed Officer Ayala to stabilize her neck. Sgt Alvies assessed the scene and his attention is focused on why the male victim was refusing to get out of the vehicle. He looked into the vehicle with Officer Feaster next to him. Officer Feaster briefly and clearly told Sgt. Alvies the circumstances of the collision, including where he first saw the vehicle, direction of travel, and the rollover. Officer Feaster did not advise him that his weapon did or might have discharged.

Sgt. Alvies said he looked into the vehicle and described the male (later identified as Thomas) inside and seated but slumped over. Sgt. Alvies relayed that Thomas told him he had been shot. Sgt. Alvies said he told Thomas that he hadn't been shot and then asked who shot you? Thomas said the cop shot him. Sgt Alvies relayed that he told him the cop did not shoot him and told him to get out of the vehicle. During this time, Officer Feaster is believed to be close enough to hear their conversation.

About 1 minute and 25 seconds after arriving, Sgt. Alvies called for Officer Feaster to assist him in removing the windshield so that they could shut off the running SUV motor, which was still in drive gear, and gain access to Thomas inside. As Sgt. Alvies broke the windshield glass, he told Officer Feaster to pull on it and ultimately shut the vehicle's ignition key off. Officer Feaster and Sgt. Alvies again tried to rouse Thomas without success.

Approximately 5 minutes and 15 seconds after arriving, and after the windshield had been peeled back, Officer Feaster and Sgt Alvies backed away and discussed the situation in more detail. There was no mention by Officer Feaster of his weapon discharging during this briefing.

At approximately 9 minutes and 45 seconds after arriving, as EMS pulled Thomas from the vehicle, Sgt. Alvies moved into look at him to evaluate his condition. He noticed a large amount of blood on his abdomen. Based upon Thomas' earlier statement about being shot, Sgt. Alvies said he asked attending EMS if they were able to tell if he had been shot. EMS personnel were unable to locate/determine any gunshot wound.

Approximately 10 minutes and 45 seconds after arriving, Sgt. Alvies told Officer Feaster to remain on the scene and told Officer Ayala to go to the Cantina Bar with him. As they rapidly walk toward their respective cars, Officer Feaster hurriedly walks toward them, saying "No, no. I had an AD". Sgt. Alvies said he stopped in his tracks, in "surprise and shock" over Officer Feaster's statement. Sgt. Alvies said this is the first time that Officer Feaster notified him that he discharged his weapon.

Sgt. Alvies said he instantaneously came to the realization of what may have occurred based on Thomas' earlier statement about being shot. Sgt Alvies said that he felt that there was no way he should have been on that scene so long without having the facts so he could properly investigate, preserve or provide life saving measures.

Once directed, Officer Feaster provided Sgt. Alvies with a "Public Safety" description of the weapon discharge. He walked over to the driver's side front of his police unit and described accidentally firing a single shot, which he thought to be up and to the left. He didn't feel that it could have hit Thomas because he hadn't aimed it at him.

Officer Ayala

Officer Ayala relayed in essence that on the evening of November 25, 2015, he was assigned to work the night shift, which began at 18:00 hrs. Also assigned to work that shift was OIC Alvies and Officer Feaster.

Officer Ayala relayed that during that shift, on November 26th at about 00:08 hrs, he and OIS Alvies were inside the Paradise Police Department report writing room. He said he heard Officer Feaster call out on the radio of a rollover collision and requested emergency backup. As they responded, a second radio transmission by Officer Feaster advised that a female was ejected from the vehicle and male subject was refusing to get out of the car.

Officer Ayala relayed that when he arrived on scene, within a minute of the initial notification, he saw the female victim lying on the ground. He asked Officer Feaster if she was the only one involved and he replied that there was a male refusing to get out of the vehicle. He attended to the female victim at the direction of OIC Alvies. He described Officer Feaster's demeanor as "somewhat disconnected". By disconnected, he said he meant that Officer Feaster was not acting as he had in the past, under similar situations; specifically he was just standing there instead of rendering aid to the injured victims.

As Officer Ayala supported the female's neck, Office Feaster provided a brief synopsis of how the vehicle came to his attention, the direction of travel, seeing the collisions and

female get ejected. Officer Feaster did not mention that his weapon did or might have discharged.

OIC Alvies then walked to the vehicle and called to the male (Thomas) inside. Officer Ayala said he heard Thomas say he was shot. Shortly thereafter, he noticed Officer Feaster walk over to the vehicle again and say to Thomas something like "Sir, please talk to me".

Approximately 3 minute and 15 seconds after arriving, he said OIC Alvies and Officer Feaster prepared to make contact with Thomas in the vehicle by first breaking out the windshield. Once the windshield was partially broken, Officer Ayala said that both officers tried to make verbal contact with Thomas. Officer Ayala said he believes he heard OIC Alvies ask Thomas something to the effect of "Are you shot?" "Who shot you?" "Were you shot at the Cantina?" Officer Ayala did not hear a response from Thomas. He said Officer Feaster was standing in close proximity and most likely within hearing distance of OIC Alvies at the time.

Approximately 5 minutes and 10 seconds after arriving, Officer Ayala said he asked Officer Feaster again what the direction of travel was of the vehicle prior to the collision. Officer Feaster provided a consistent explanation of the events as he described earlier. Officer Feaster still had not reported that he had or may have discharged his weapon.

Approximately 6 minutes after he arrived, Officer Ayala said EMS arrived and assumed attending to the female victim. Officer Ayala said that he directed his attention to surveying the crime scene as a traffic investigation. He said at this point, he still had no idea that there had been a shot fired.

Approximately 9 minutes and 40 seconds after he arrived, Officer Ayala said that EMS extricated Thomas from the vehicle. As Thomas was being tended to, Officer Ayala continued to survey the immediate scene, the female victim (who had since been pronounced deceased), and the SUV.

At approximately 10 minutes and 45 seconds after he arrived on the scene, Officer Ayala said that his attention was focused on OIC Alvies who said something to the effect of "Feaster, you have the scene; Manny you're with me to the Cantina". As he began to walk toward OIC Alvies, Officer Ayala heard Officer Feaster call out "No, No don't, I had an AD". Officer Feaster continued to say "I wasn't pointing at him, I didn't shoot him", "but my gun did go off". When asked, Officer Ayala said that Officer Feaster sounded certain the gun went off but uncertain if Thomas was struck by the bullet.

OIC Alvies, almost immediately directed Officer Ayala to attempt to locate the casing, which he did within a couple of minutes and protected it by covering it with a traffic cone.

Officer Feaster:

In the District Attorney's Supplemental Report that summarizes Officer Feaster's interview Officer Feaster said although he didn't hear the blast, he re-holstered and started to check on the condition of Thomas and Ehorn as he put out another radio call for medics. Officer Feaster started to look for the shell casing because he said there was nothing he could do by himself (at that point) without the help of other officers. Once OIC Alvies and Officer Ayala arrived on scene, they started processing the scene for evidence and attended to the injured.

Approximately two minutes after the other officers arrived, Officer Feaster said he had not told anyone he fired his weapon. Officer Feaster stated there were so many other things going on and he was still unsure if he had actually fired his weapon, he did not think to say anything at that time. Officer Feaster said he tore away a part of the windshield and turned off the vehicle which had still been running up to that time. Officer Feaster said at this time he observed Thomas in the vehicle who appeared to be breathing.

Officer Feaster was asked if Thomas ever said anything to him. Officer Feaster said after the shot went off, Thomas told him in a nonchalant way or in a "sarcastic" way, "You shot me, I'm dead", and then slumped back into the car. Officer Feaster said there was no scream or cry or anything to suggest the person had really been shot. Officer Feaster was asked if he, at this time, notified anyone he fired his weapon. Officer Feaster again advised he had not due to the fact he was still processing the scene and there was still a lot going on around him. When EMS arrived on scene, Officer Feaster said he still had not notified anyone he had fired his weapon.

Approximately 7 minutes after the weapon discharged, Officer Feaster was asked if he had told anyone he fired his weapon. Officer Feaster said no he was still tending to the scene. Approximately 9 minutes after the weapon discharged, Officer Feaster said he still had not notified anyone yet of the gun going off.

Approximately 11 minutes after the discharge, Officer Feaster said that at this point he told OIC Alvies about the accidental discharge (A.D.) Officer Feaster said he told OIC Alvies that he thought his gun went off and believed there was no way it hit him or got close to hitting him. Officer Feaster said that his perception was that the shot was too far left and high. Officer Feaster said that it was when OIC Alvies told him to hold the scene and they possibly had a shooter at the "Cantina" that it "clicked" for him that this is now the most important thing and he advised OIC Alvies of the shot being fired.

Officer Feaster was asked what his reporting responsibility is after firing his weapon. What is the policy of the department? Feaster said it is to tell as soon as practical and that is normally what he would have done; it's the right thing to do. Officer Feaster was asked if anything "clicked" in his head before he told OIC Alvies of the weapon discharge. Officer Feaster said it did not and had anything "clicked" earlier he would have reported the weapon discharge sooner.

In review of the audio recording of the District Attorney's interview with Officer Feaster he was asked if, after he holstered his weapon, he believed Thomas might have been "hit" or "shot." Officer Feaster replied "I had the fear that he might have been." Later in the interview Officer Feaster stated that he had a conversation with Thomas while Thomas was inside the car. Thomas told him "you shot me," and Officer Feaster said he replied, "No I didn't." When asked why he said, "No, I didn't," Officer Feaster stated, "Just a reaction phrase that came out; one, I didn't think I did, two, I didn't want to have if I did, and three I wasn't even sure it actually still happened."

ALLEGATION #3

The Administration alleges that on November 26, 2015, between approximately 00:08 and 00:19 hours, on Pearson Rd, east of the Black Olive Dr. intersection, Officer Feaster, who was on duty and in uniform at the scene of an injury, rollover traffic collision, unintentionally discharged his duty handgun resulting in the injury and later death of another (Andrew Thomas). Immediately after and for approximately the next eleven minutes, Officer Feaster failed to take appropriate steps to provide initial medical aid (e.g., first aid, CPR) for those in need of immediate care in accordance with his training and current certification levels despite it being safe to do so; and failed to provide reasonable medical considerations and ensure that any person providing medical care was informed that the person was subjected to the use of force, including the circumstances and type of force used.

Officer Feaster's Mobile Audio Video (MAV) – "Dash Cam"

Officer Feaster's assigned vehicle was equipped with a functioning MAV "Dash-Cam" which was automatically activated once the officer turned on the vehicles emergency lighting equipment. The MAV activation resulted in the entire incident being video recorded. There is no audio associated with this MAV.

Immediately following the discharge, Officer Feaster re-holsters his weapon, walks up to the SUV and looks inside. After about 15 seconds, Officer Feaster uses his portable radio and walked back to the area where the weapon was discharged. At this point, Officer Feaster begins to look on the ground with the aid of his flashlight. Officer Feaster renders no medical aid to the ejected female collision victim (Ehorn) or Thomas.

OIC Alvies and Officer Ayala Portable A/V Recorders (VieVu)

OIC Alvies and Officer Ayala arrived on scene within a minute of the notification when they saw the female victim lying on the ground. Officer Feaster was asked if she was the only one involved and he replied that there was a male refusing to get out of the vehicle. Officer Feaster was not rendering aid to the injured victims, but rather looking on the ground near where the discharge occurred. Officer Ayala attended to the female victim at the direction of OIC Alvies.

As Officer Ayala supported the female's neck, Officer Feaster provided a brief synopsis to him of how the vehicle came to his attention, the direction of travel, seeing the

collision and female ejected from the SUV. He did not mention his weapon discharge or being told by Thomas that he had been shot.

Officer Feaster then advises OIC Alvies of Thomas being in the vehicle refusing to get out and then Officer Feaster leaned into the SUV and said: "Get out of the car sir" and "You're not shot sir". Officer Feaster then explains to OIC Alvies his observations of the SUV being driven and the collision but did not say anything about his weapon discharge or report that Thomas told him earlier that he had been shot. During this exchange, Officer Feaster does not advise the supervisor that his weapon did or might have discharged.

On at least two other occasions during initial on-scene investigation, Officer Feaster describes the circumstances and events to OIC Alvies and/or Officer Ayala of his initial observations of the SUV, directions of travel, collision but does not mention his weapon discharge to them. On two separate occasions, once involving Officer Feaster and another involving OIC Alvies, a verbal exchange/reply is heard regarding Thomas being shot. Officer Feaster does not mention that his weapon discharged.

Approximately 6 minutes after Officer Ayala arrived; EMS arrived and assumed attending to the female victim.

11 minutes and 35 seconds after the weapon discharge and as OIC Alvies and Officer Ayala walked toward their vehicles to further the investigation, Officer Feaster hurriedly walked toward them and said "No, no; I had an AD" (accidental discharge).

Statements:

Sgt. Alvies

Sgt. Alvies said when he arrived on scene, he noticed that no first-aid was being given to the ejected female victim by Officer Feaster so he directed Officer Ayala to stabilize her neck.

At approximately 9 minutes and 45 seconds after arriving, as EMS pulled Thomas from the vehicle, Sgt. Alvies moved into look at Thomas to evaluate his condition. He noticed a large amount of blood on his abdomen. Based upon Thomas' earlier statement about being shot, Sgt. Alvies said he asked attending EMS if they are able to tell if he had been shot. EMS personnel were unable to locate/determine any gunshot wound, probably because it had been coved up by a C-Spine collar. To this point, Officer Feaster had not reported or offered any information that his weapon had or may have discharged.

Sgt Alvies said that it wasn't until approximately 11 minutes after his weapon discharged that Officer Feaster reported the discharge and therefore brought attention to a possible

gunshot wound to Thomas. Sgt Alvies said that had he known earlier, he would have provided medical aid measures earlier.

Officer Ayala:

Officer Ayala relayed that when he arrived on scene within a minute of Officer Feaster's notification he saw the female victim lying on the ground, not being attended to by Officer Feaster. At the direction of OIC Alvies, he stabilized the neck of the victim and attended to her until EMS arrived.

Officer Ayala also relayed that it wasn't until approximately 11 minutes after his weapon discharged that Officer Feaster reported the discharge.

Officer Feaster:

After the weapon discharged, Officer Feaster said he approached the SUV to check on the condition of Thomas. Officer Feaster was asked if he considered Thomas a threat when he was in the car and he approached. Officer Feaster said he did not due to how he went back into the car. Officer Feaster said Thomas crumpled back into the car into a crouching position. Officer Feaster stated he thought Thomas was injured from the traffic collision.

Officer Feaster stated he had a conversation with Thomas as he was trying to determine the level of his injuries. Officer Feaster said that Thomas told him that he (Officer Feaster) had shot him. Officer Feaster told him that he did not shoot him and to get out of the car. Officer Feaster was asked why he told Thomas he didn't shoot him. Officer Feaster said it was just a reaction statement and he didn't see blood. He said he was also hopeful he hadn't shot him.

Officer Feaster then started to look for the shell casing because he said there was nothing he could do by himself at that point without the help of other officers. Once OIC Alvies and Officer Ayala arrived on scene, they immediately attended to the injured female.

When asked why it took Officer Feaster so long for him to notify anyone of the discharged weapon, he said that he had a lot going on at the scene and even after he notified OIC Alvies of the shooting (11 minutes after the weapon discharge), he still wasn't sure it actually happened.



TOWN OF PARADISE POLICE DEPARTMENT

**5595 Black Olive Drive, Paradise, CA 95969 (530) 872-6241 FAX (530) 872-4950
Gabriela F. Tazzari-Dineen, Chief of Police**

February 8, 2016

Mr. Patrick Feaster
2732 Revere Lane
Chico, CA 95973

**Re: Internal Affairs Case 2015-04
Letter of Final Imposition for Discipline-Termination**

Dear Mr. Feaster:

On January 14, 2016, I delivered to you a Notice of Intent to take Disciplinary Action indicating your right to respond to the Department's pending disciplinary action against you, as reported under IA # 2015-04. You were also advised of your right to review the material on which the discipline was based. As such, you were provided a complete copy of the material.

In the Notice of Intent you were advised that a Skelly Meeting was scheduled for January 25, 2016, at 1100 hours. By mutual agreement, the Skelly Meeting was moved to February 4, 2016, at 1100 hours.

On February 4, 2016, at 1112 hours, you and your attorney, Brett Sherman, met with me so that you or your attorney would have an opportunity to respond to the Notice of Intent. With everyone's knowledge the meeting was recorded. Also present were Dwight Moore, the Town Attorney, and Lt. Al Billington.

I began the meeting by briefly describing the Skelly Meeting process and your right to respond to the charges and/or discipline either orally or in writing or both. I asked you if you had anything in writing that you wished to submit and you stated you did not. You were asked if you wished to respond to the charges and your attorney, Brett Sherman said he would respond.

Mr. Sherman's response was brief. He commented that termination was not the appropriate level of penalty for this incident. He asked me to consider several things such as; would I have proposed termination if Thomas had not died or if the bullet had hit the ground instead of Thomas, or if there was some other form of accidental discharge? Mr. Sherman asked that I not consider public opinion or any other factors outside of the department in making my final decision. Mr. Sherman repeated that the incident did not actually warrant termination. Mr. Sherman then stated he had no further statements to make and the Skelly Meeting was concluded at 1116 hours.

After reviewing the Notice of Intent and Mr. Sherman's responses at the Skelly Meeting, I find that no new information was presented to warrant reconsideration of the discipline. The issues that Mr. Sherman asked me to consider are not pertinent to this discipline because they do not provide any mitigating evidence regarding the facts in this case. Only the actual facts have been considered by me in regards to the level of discipline. No outside factors, such as public opinion, were taken into account. In determining the appropriate level of disciplinary penalty, my paramount concern is to what extent does the misconduct result in serious harm to the Paradise Police Department's ability to provide services.

After a thorough review of the very serious nature of this incident and your history with the Department, I have sustained the allegations regarding the violation of the below policies. This determination was made as a result of the investigation conducted by Special Investigator Chris Buzzard and Lieutenant Rowe, and as such this action is taken for the following listed grounds:

ALLEGATION #1

The Administration alleges that on November 26, 2015, at approximately 00:08, hours, on Pearson Rd, east of the Black Olive Dr. intersection, in Paradise California, Officer Feaster, who was on duty and in uniform, failed to safely handle his duty handgun resulting in an accidental, unintentional discharge causing unwarranted injury and later death to another (Andrew Thomas) who was being detained and or arrested by Officer Feaster.

SUSTAINED #1

Based on the evidence, the above behavior by Officer Feaster violated the following Paradise Police Department Policies:

- PPD Policy Manual § 340.5.9 (b) - Conduct; Unreasonable and unwarranted force to a person encountered or a person under arrest.
- PPD Policy Manual § 340.5.10 (a) – Conduct; Failure to observe or violating department safety standards or safe working practices.
- PPD Policy Manual § 340.5.10 (d) – Conduct; Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

ALLEGATION #2

The Administration alleges that on November 26, 2015, between approximately 00:08 and 00:19, hours, on Pearson Rd, east of the Black Olive Dr. intersection, in Paradise California, Officer Feaster, who was on duty and in uniform, unintentionally discharged his duty handgun resulting in the injury and later death of another (Andrew Thomas) and failed to make a verbal report to his supervisor as soon as practical and when circumstances permitted following the application of force; and failed to participate in or gave false or misleading statements, or misrepresented or omitted material information to a supervisor in connection to an investigation.

SUSTAINED #2

Based on the evidence, the above behavior by Officer Feaster violated the following Paradise Police Department Policies:

- **PPD Policy Manual § 300.5.1- Use of Force; Notification to Supervisors:** Supervisory notification shall be made as soon as practical following the application of force.
- **PPD Policy Manual § 312.7 – Firearms; Firearms Discharge:** Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit.
- **PPD Policy Manual § 340.5.8 (c) – Conduct; Performance:** Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.
- **Town of Paradise & Police Officer Association MOU § 7.05 (A) 4 – Basis for Discipline :** Gross and/or willful neglect of duty
- **Town of Paradise & Police Officer Association MOU § 7.05 (A) 11 – Basis for Discipline:** Any other failure of good behavior that has been demonstrated to have impaired the effectiveness of the employee in rendering services to the Town

ALLIGATION #3

The Administration alleges that on November 26, 2015, between approximately 00:08 and 00:19 hours, on Pearson Rd, east of the Black Olive Dr. intersection, Officer Feaster, who was on duty and in uniform at the scene of a rollover traffic collision (with a clearly injured female passenger), unintentionally discharged his duty handgun resulting in the injury and later death of another (Andrew Thomas). Officer Feaster immediately and for approximately the next eleven minutes, failed to take appropriate steps to provide initial medical aid (e.g., first aid, CPR) for those in need of immediate care in accordance with his training and current certification levels despite it being safe to do so; and failed to provide reasonable medical considerations and ensure that any person providing medical care was informed that the person was subjected to the use of force, including the circumstances and type of force used.

SUSTAINED #3

Based on the evidence, the above behavior by Officer Feaster violated the following Paradise Police Department Policies:

- **PPD Policy Manual § 300.6 - Use of Force; Medical Considerations;** The on-scene supervisor, or if not available, the primary handling Officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the Officer reasonably believes would be potential safety or medical risks to the subject.
- **PPD Policy Manual § 406.4 (d) - Crime Scene Responsibilities; First Responder Responsibilities;** Provide first aid to injured parties if it can be done safely.
- **PPD Policy Manual § 467.3 – Medical Aids; First Responding Member Responsibilities;** Whenever practical, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR and use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.
- **Town of Paradise & Police Officer Association MOU § 7.05 (A) 4 – Basis for Discipline :** Gross and/or willful neglect of duty
- **Town of Paradise & Police Officer Association MOU § 7.05 (A) 11 – Basis for Discipline;** Any other failure of good behavior that has been demonstrated to have impaired the effectiveness of the employee in rendering services to the Town

Prior to determining this disciplinary action, I have thoroughly reviewed all the evidence relating to this case, Mr. Sherman's responses and your Internal Affairs record with this Department. All the evidence relating to this disciplinary action is available in the accompanying flashdrive. Your records indicate you have previous documented violations of policies where you either failed to follow or claimed not to have knowledge of Department policies.

IA 2011-04-In November 2011, you were the subject of an Internal Affairs investigation where three allegations were sustained regarding failure to follow mandated laws and policy violations that occurred on November 27, 2011 and July 23, 2011. You received a Letter of Reprimand as a result of that investigation.

IA 2013-04-In July 2013, you were the subject of an Internal Affairs investigation where four allegations were sustained regarding failure to follow department policy pertaining to found property and policy violations that occurred between January and July 2013. You received a 1 day suspension as a result of that investigation.

This letter of Final Imposition for Discipline TERMINATES your employment as a Police Officer with the Town of Paradise. This action shall become effective on Monday, February 8, 2016, at 1700 hours.

Pursuant to section 7.06 C.3 of the Memorandum of Understanding (MOU) between the Town of Paradise and the Paradise Police Officers Association, you have a right to appeal this discipline within seven calendar days to the Town Manager. A copy of the MOU is attached in the accompanying flashdrive.

Sincerely,



Gabriela Tazzari-Dineen
Chief of Police



BUTTE COUNTY DISTRICT ATTORNEY



MICHAEL L. RAMSEY

District Attorney

FRANCISCO R. ZARATE
Chief Deputy District Attorney

RICHARD WEST
Chief Investigator

December 10, 2015

Chief Gabriela F. Tazzari-Dineen
Paradise Police Department
5595 Black Olive Drive
Paradise, CA 95969

RE: Officer Patrick Feaster and the shooting of Andrew Nicholas Thomas, PPD #15-2996

Dear Chief Tazzari-Dineen,

After an extensive and careful review of the evidence gathered by the Butte County Officer Involved Shooting/Critical Incident Protocol Team related to the above shooting incident, it is this office's determination the facts and law do not support criminal charges being brought against your officer **Patrick Feaster** for his November 26, 2015 shooting of **Andrew Nicholas Thomas**. The evidence in this case tends strongly towards showing the shooting to be unintentional and possibly negligent, but not criminally so.

As you know, the objective of the team's investigation is not an administrative investigation to determine whether there was a violation of your departmental policy nor is it a critique of any involved officer's tactics. Its purpose is to determine whether there is any criminal liability on the part of any involved officer. The investigation, as was done here, is to be accomplished by uninvolved, professional investigators from separate agencies to supply a complete, unbiased and uncompromised investigation to be reviewed by my office. A finding of criminal liability can only be found if we would be able to find beyond a reasonable doubt your officer intentionally or with criminal negligence pulled the trigger on his weapon. We would not be able to sustain such a burden in this case.

The investigation established Officer Feaster was on normal patrol and had parked his assigned patrol vehicle off the Skyway near Foster Road in Paradise when he saw a SUV rapidly accelerate out of the parking lot of the nearby Canteena Bar without its headlights on and speed down the Skyway. The officer's dashcam was activated and it showed the officer begin to follow the SUV as it sped at high speed through the red turn signal at the intersection of the Skyway and Pearson Road and turn left (east) onto Pearson Road. As the officer was attempting to catch up with the speeding SUV, he saw it crash into the median just past Pearson Road's intersection with Black Olive Drive and overturn. The officer saw a female, later identified as Darien Ehorn, 23, thrown out of the vehicle as it overturned and impact the roadway in front of the officer. The SUV skidded to a stop lying on its driver's side just past Ehorn's body. The officer stopped his patrol vehicle and got out to approach Ehorn as she lay on the road.

As the officer got out, he saw Thomas begin to quickly pull himself out of the now-upward-facing passenger side window of the SUV. This startled Officer Feaster who felt Thomas was possibly

attempting to escape from a potential felony vehicular manslaughter incident. The officer pulled his .45 caliber semi-automatic pistol to cover Thomas as he would in a “high risk felony traffic stop.” It was at this time Officer Feaster’s weapon discharged and Thomas was struck in the left lower neck. Medical reports note Thomas’ C7 and T1 vertebra and spine were impacted by the gunshot.

A careful analysis of the dashcam video showed the officer’s gun was discharged only one time although there is a potential optical illusion of a second shot. It was determined the illusion of a second shot was as a result of the officer’s gun-mounted flashlight illuminating the expended gunshot gases in front of the pistol’s muzzle as it recovered from its recoil. Additionally the California Department of Justice (DOJ) CSI team found only one expended casing from Officer’s Feaster’s gun at the scene. The team also determined only one cartridge was missing from the officer’s gun when they inspected the pistol and its magazine.

Officer Feaster told responding officers that night he did not intentionally fire his weapon and that it was an accidental discharge. He later told protocol team investigators in a voluntary interview the next day that it was not his intention to discharge his weapon. The dashcam video also shows Officer Feaster was not prepared for and was surprised by the gun’s firing. The pistol discharges in mid stride and the officer both flinches his head to the right and does a “stutter step” indicative of an officer not prepared for nor intentionally firing his pistol. Additionally officers normally train to fire a minimum of two shots when they intentionally fire their sidearms at training. There was no second shot and the officer immediately holstered his weapon after the discharge.

In his interview with protocol team investigators, Officer Feaster noted, and his Paradise Police training records corroborated, that he has trained at least twice a year with the same firearm since his employment with Paradise Police in 2010. He stated, and police administration confirmed, he has had no other negligent/accidental discharges while with Paradise Police Department.

Officer Feaster’s sidearm, a department issued Glock model 21C semi-automatic pistol in .45 caliber, was found to be functioning properly when later test fired at the DOJ lab facility. The trigger-pull was normal for such a weapon. As you know, the Glock has an internal trigger safety which only allows the weapon to be fired by applying pressure to the safety and trigger at the same time. Officer Feaster’s pistol did have a custom addition of an under barrel mounted flashlight with a pressure activation button on the grip below the trigger guard. There had been some speculation by team investigators that there may have been some confusion over the flashlight button and the trigger when the officer was faced with the high stress situation he found himself in. However, Officer Feaster told investigators he did not believe such was the case as he has had the flashlight modification on his pistol for approximately a year and a half and had trained with it – including at a department night pistol training just the week before.

Officer Feaster has been cooperative during the investigation, but cannot explain why his finger would be on the trigger of his pistol that night as he always trained to the police standard of “indexing” his finger until he was prepared to intentionally fire his pistol. His reaction on the dashcam video and his statements to protocol investigators confirm an honest belief that he did not intentionally fire his pistol. The delay in immediately reporting the “accidental discharge” was also discussed with him and he explained that he was shocked at the scene and not certain that his

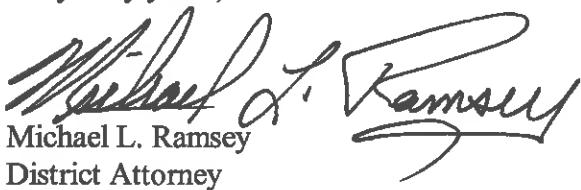
weapon had actually discharged. Interviews with responding officers confirm his confused state at the time. A review of Officer Feaster's personnel file did not reveal any instances of dishonest conduct or any sustained citizen complaints against the officer in his five years with Paradise Police.

In examining Officer Feaster's criminal liability, we note first that this, thankfully, is not a homicide case and we therefore only examine those Penal Code sections dealing with the discharge of a firearm. All of those sections, be it Penal Code section 245 (Assault with a Firearm), 246 (Discharge of Firearm at an Occupied Vehicle) or 246.3 (Discharge of a Firearm in a Grossly Negligent Manner), all require proof the trigger of the firearm was pulled "willfully" or under circumstances in which the display of the gun was unreasonable. As noted in Penal Code section 7, the word "willfully" when "applied to the intent with which an act is done, implies simply a purpose or willingness to commit the act (i.e. pull the trigger)". An unintentional or accidental pulling of the trigger, as long as the firearm was originally displayed in a legal and reasonable manner – i.e. an officer in the reasonable performance of his duty of making a felony vehicle stop – does not, under the law, allow for criminal charges.

Even a negligent pulling of the trigger would not allow for criminal charges unless the negligence reached the level of "criminal negligence." As noted in the jury instruction defining "criminal negligence" – "Criminal negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with criminal negligence when: 1) He or she acts in a reckless way that creates a high risk of death or great bodily injury; and 2) A reasonable person would have known that acting in that way would create such a risk. In other words, a person acts with criminal negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act." And any proof of criminal negligence is upon the prosecution to prove beyond a reasonable doubt. The facts here do not rise to that proof.

As always I thank the Butte County Officer Involved Shooting/Critical Incident Protocol Team for their excellent, professional and unbiased investigation into this case.

Very truly yours,



Michael L. Ramsey
District Attorney

Cc: Butte County Officer Involved Shooting/Critical Incident Protocol Team